IN THE COUNTY COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Revised
Not Restricted
Suitable for Publication

Case No. CR-21-01871

DIRECTOR OF PUBLIC PROSECUTIONS

v

INDU NIROSHANA MATHANGASING EDIRIWEERA

JUDGE:	HER HONOUR JUDGE ELLIS
WHERE HELD:	Melbourne
DATE OF HEARING:	17 May and 29 June 2023
DATE OF SENTENCE:	10 August 2023
CASE MAY BE CITED AS:	DPP v Mathangasing Ediriweera
MEDIUM NEUTRAL CITATION:	[2023] VCC 1435

REASONS FOR SENTENCE

Subject:	CRIMINAL LAW
Catchwords:	five charges of obtaining financial advantage by deception-three charges of using identification information- plea of guilty-period on bail served in immigration detention-
Legislation Cited:	*Crimes Act 1958* (Vic); *Sentencing Act 1991* (Vic)
Cases Cited:	*Worboyes v The Queen* [2021] VSCA 169; *Underwood (a pseudonym) v The Queen No. 2* [2018] VSCA 87; *Sahhitanandan v The Queen* [2019] VSCA 115; *Dyason v The Queen* [2015] VSCA 120; *Kepley v The Queen* [2021] VSCA 202; *Kelly v The Queen* [2021] VSCA 216; *DPP v Wilson [2022] VSCA 1995; DPP v Payne* [2016] VCC 1666; *DPP v Alesi and Alesi* [2017] VCC 768; *DPP v Johnston* [2018] VCC 2210; *Dyason v The Queen* [2015] VSCA 120
Sentence:	Total effective sentence of 3 years and 1 month imprisonment, with a non-parole period of 16 months' imprisonment

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APPEARANCES:	Counsel	Solicitors
For the DPP	Mr A. Grant	Office of Public Prosecutions
For the Accused	Mr M. Reardon	Victorian Legal Aid

HER HONOUR:

1. Indu Niroshana Mathangasing Ediriweera you have pleaded guilty to:
    - 5 charges of obtaining financial advantage by deception contrary to s82(1) of the *Crimes Act 1958* (Vic), which carries a maximum penalty of 10 years' imprisonment **(Charges 2, 3, 4, 6, and 7)**; and

    - 3 charges of using identification information contrary to s192B (1) of the *Crimes Act 1958* (Vic), which carries a maximum penalty of 5 years' imprisonment **(Charges 1, 5 & 8)**.

2. Charges 2, 3, 4, 6 and 7 are each rolled up charges.

3. The circumstances of the offending were set out in a comprehensive Summary of Prosecution Opening dated 15 May 2023 (Exhibit A). The offences were committed during the period between 11 April 2019 and 22 October 2020. Your offending involved two primary victims, Savvas Dimitriou (Charges 2, 3 and 6) and Neil Maurice (Charges 4, 7 & 8). Additionally, there were two secondary victims, Terry Arangala (Charge 1) and Saleem Bahrami (Charge 5).

4. Your offending against the two primary victims took place after you gained the trust of each of them and convinced each that you were in urgent need of financial assistance. Essentially you claimed that you urgently required funds for a number of purposes including:
    a) to pay for accommodation, food and basic needs;
    b) to assist you to obtain employment so as to allow you to become financially self-sufficient;
    c) to pay urgent personal debt; and
    d) to assist members of your family who had been beset by difficulty and were in need of assistance.

5. However, you did not use the funds for the reasons that you identified; instead, you used the money for gambling by placing bets through betting accounts operated by you.

6. In each case you claimed that if the victims provided you with the funds requested, then you would pay them back within a certain time frame. Whilst you did repay a relatively small amount of the money transferred by each of them, the vast majority of the funds transferred to you by both Mr Dimitriou and Mr Maurice were not repaid.

7. The overall amount of money that you obtained from Mr Dimitriou totalled $625,372.43. The overall amount of money that you obtained from Mr Maurice was $473,375.

8. To place your offending into context, it is necessary to set out a little of the background. You were born in Sri Lanka on 17 August 1981. You came to Australia in July 2014. Shortly after your arrival you were introduced to Neil Maurice by family members and he agreed to let you stay with him and his family, where you resided until June 2016. You then lost contact for a period of time but reconnected in June 2019, when you called him for some assistance (which gave rise to the offending on Charge 4).

9. You met Savvas Dimitriou on 5 June 2019 at the Dandenong Plaza Shopping Centre. The two of you had never met before, but on this date you approached Mr Dimitriou as he was walking to his car, telling him you needed a job. You told him that you had lost your job six weeks earlier and that you were homeless and desperate. Mr Dimitriou, feeling sorry for you, gave you $130 cash, and the two of you exchanged numbers. Later that evening you sent Mr Dimitriou a text message thanking him and attaching a photo of your passport.

Offending against Savvas Dimitriou

Charge 2:

10. The following day, you contacted Mr Dimitriou and told him you had travelled to Sydney to collect your redundancy payment from a previous employer. You claimed you had been robbed, your passport and clothes stolen and that you had no money for accommodation. Feeling sorry for you, Mr Dimitriou sent you $500, and you promised him you would reimburse him once you had received your redundancy payments.

11. You later sent him a text message indicating that you were happy and attaching a screen shot which showed two deposits into your Westpac Bank account. As the day

progressed however, you claimed that you were beset by financial problems, including issues that were preventing you from receiving your redundancy payment, problems with your working visa, and family issues in Sri Lanka. You then sent Mr Dimitriou numerous text messages pleading for financial assistance. Mr Dimitriou believed you and decided to assist you by providing you with funds.

12. The next day, you claimed that your mother-in-law had died in Sri Lanka overnight and that you needed the money for the funeral as per Sri Lankan custom. Mr Dimitriou transferred $370 to your account. You later followed this up with a text message claiming your earlier Westpac deposits had been reversed but you had managed to get your money back and you claimed you needed more money to send to your wife in Sri Lanka. Mr Dimitriou paid you another $370 which you promised to pay back.

13. Further funds were transferred on 8 June 2019 when you claimed that you had returned to Melbourne but did not have enough money to pay a deposit on a room rental. Again Mr Dimitriou transferred money to you.

14. Throughout June and July you continued to contact Mr Dimitriou claiming that you had been beset by various unfortunate events or that you needed money to assist with costs associated with obtaining certification for your employment. Believing you, Mr Dimitriou transferred various sums of money to you in an effort to assist you. You did not repay any of those amounts to him.

15. On 20 June 2019, after several stories of family trouble, Mr Dimitriou told you that the requests for money had to cease. But you responded by begging him for money and he again relented and deposited money into your account.

16. You then began to send emails to Mr Dimitriou from an email address which gave the appearance of having been sent by your wife. Pausing there, you had divorced your wife by this stage. The emails from your 'wife' also indicated that she was a doctor and had money, but requested further funds to be repaid following her arrival in Australia. Mr Dimitriou did not reply.

17. In a series of further exchanges commencing on 27 June 2019, you set out your expenses, and persisted with your requests for further money despite Mr Dimitriou telling you to stop. Ultimately he agreed to loan you further money, as you advised you would enter into a written agreement. You claimed your landlord had evicted you and promised to repay Mr Dimitriou, who again believed you, and transferred money into your account.

18. On 2 July 2019 you claimed your mother had been taken ill and indicated you wanted to go to Sri Lanka to be with her. You persisted with your requests for money and eventually Mr Dimitriou relented and transferred money to you for your flights. Two days later, you claimed to be in Sri Lanka but made further requests for funds due to various hardships, including that your sister-in-law had taken your mother's money, that there were problems associated with her will, issues with your wife and problems with work.

19. On 17 July 2019, you continued the ruse that your wife was coming to Australia and would bring cash to repay Mr Dimitriou. This included sending him a screen shot which purportedly evidenced a transfer of $950 which he then received. Further repayments were made to him in August and October 2019 totalling $2,000.

20. Between 5 June 2019 and 2 July 2019, Mr Dimitriou made 23 transfers totalling $19,791, some of which you used for living expenses. You dishonestly obtained a total of $7,069 from Mr Dimitriou during this period, by way of electronic transfers. You did not use or intend to use the money for the reasons you identified. You did not repay any of the money. Instead, you intended to use that money to place bets through betting accounts operated by you.

Charge 3

21. In mid-November 2019, in response to Mr Dimitriou asking you if you were okay, you told him you had got a divorce and needed help. Mr Dimitriou indicated that he could not help you and wished you luck. Later that night you messaged him from a different number advising him you were in Sydney and that you were homeless. The following day Mr Dimitriou agreed to send you some money, offering to provide credit card details to a hotel in Sydney in which you were purporting to stay. You declined that offer

and falsely claimed that you needed money for your sister-in-law who was looking after your daughter.

22. On 18 December 2019 you told Mr Dimitriou that you were sleeping in your car and requested further funds claiming that your landlord, Mr Maurice, was demanding money. Mr Dimitriou transferred $750 to your CBA account. Between 23 and 31 December 2019 you continued to contact Mr Dimitriou claiming various personal matters had plagued you including that your brother had been killed in a motorcycle accident. This resulted in Mr Dimitriou transferring money for you to buy a ticket to Sri Lanka. You requested further funds so as to enable you to sell your mother's house and you claimed that you needed money. He made 15 transfers to you during this period totalling $27,827, some of which were used for living expenses but some you used to transfer into betting accounts and to place bets. Had Mr Dimitriou known that this money was going to fund gambling from those accounts he would not have transferred that money to you.

23. The total amount of money that you obtained from Mr Dimitriou during this period was $21,653. Again, you did not use or intend to use the money for reasons identified; rather it was used to place bets through betting accounts.

Charge 6

24. On 1 January 2020 you sent another text message to Mr Dimitriou in which you claimed that you were in Sri Lanka and that your daughter had been seriously injured by some fireworks exploding in her face. You told him that she needed to travel to India for urgent surgery and asked him to transfer money to pay for the flight and surgery claiming that you did not have any money and that without the operation, your daughter would lose her sight. In actual fact you did not have a daughter in India at that time. Nor were you in Sri Lanka at that time according to Border Force records.

25. Although Mr Dimitriou was becoming suspicious, he felt morally obliged to help. Throughout January 2020 you continued to message him, again claiming to have been plagued by unfortunate situations for which you required money. On each occasion you promised to repay him. There were occasions on which Mr Dimitriou declined to assist, however you continued to pester him and on occasion threatened self-harm or suicide

if he did not transfer you some money. As a consequence Mr Dimitriou regularly transferred money to you; and on each occasion there was a promise to repay.

26. You did begin to start making small repayments to Mr Dimitriou. Sometimes those payments did not go through, and you claimed that you were having problems with the release of funds from the sale of your mother's house. You also claimed to have problems with various banks in Sri Lanka requiring further funds from you. Mr Dimitriou believed you and transferred money to you. You also claimed you had been reported to AUSTRAC and that you were making payments to them. You showed Mr Dimitriou some receipts that apparently related to those payments which he accepted as legitimate and he continued to transfer money to you when requested. You did not have any unpaid fines or debts with AUSTRAC.

27. When Mr Dimitriou queried what was occurring with AUSTRAC you continued the ruse claiming that you were about to have a meeting with somebody at the Commonwealth Bank about the issue. You offered to allow Mr Dimitriou to listen to the discussion in which the CBA was going to explain why your bank accounts had been frozen. You even called Mr Dimitriou as you are walking into the purported meeting, and he could faintly hear the conversation and a reference to an account being frozen.

28. Mr Dimitriou drafted a loan agreement which you signed and returned to him. During the period between 1 January and 12 June 2020, Mr Dimitriou made 336 transfers to you totalling over $759,000. Whilst some of this money was used for living expenses, you obtained $596,652.43 of this amount from Mr Dimitriou by falsely representing that you urgently required the funds for the various reasons identified such as personal tragedy or financial difficulties which had befallen you or your family. On each occasion you promised to repay Mr Dimitriou, but again you used or intended to use the money to place bets through betting accounts. Additionally, Mr Dimitriou loaned you some money which you did use for legitimate purposes and these amounts are not the subject of the charges to which you have pleaded guilty.

29. The investigation revealed that during the offending, shortly after funds had been transferred into your account by Mr Dimitriou, you transferred the funds into one of the betting accounts that you operated and used the money to place bets. Mr Dimitriou

would not have transferred any money to you had he known you were going to use the funds for these purposes.

Offending against Neil Maurice

Charge 4

30. In June 2019, sometime after you had lost contact with Mr Maurice, you called him in an emotional state. You told him that you had been offered a job that required you to obtain a rigger's licence and that you needed $1,000 to obtain the licence. Mr Maurice agreed to assist you and transferred $1,000 into your bank account. You then contacted him and advised you had successfully obtained the job and you were working for a man called Farrid.

31. In August 2019 you again contacted Mr Maurice and claimed to have won $24,000 with the betting company Bet365. However, you claimed you were not able to access those winnings until you set up an account with Barclays Bank in England, as this was a requirement with the betting company. You told him that you needed to deposit £100,000 (approximately $190,000 Australian dollars) before you could claim your winnings. You asked Mr Maurice to provide funds to pay that deposit, promising him that you would pay him back as soon as you could. Again, Mr Maurice, believing that you were going to transfer those funds into an account at Barclays and that you would repay him, subsequently transferred the money into your Westpac bank account.

32. You also suggested that Mr Maurice should invest in shares in Sri Lanka. Again, Mr Maurice, believing you, transferred approximately $200,000 over a period of time to invest in the purported shares. You never provided any proof that you had in fact purchased any such shares in Sri Lanka.

33. You subsequently contacted Mr Maurice and claimed that Barclays Bank had requested that AUSTRAC become involved to release the funds that had been deposited into the bank, and that your accounts had all been frozen because of your unusual and frequent transaction with institutions in Sri Lanka. You claimed that you were being investigated by AUSTRAC in relation to money laundering and that AUSTRAC had charged you. You claimed that you were required to pay a number of fines quickly in order to 'keep the process moving forward and unfreeze the accounts'.

You claimed that the fines had to be paid within 5 to 12 hours or the penalties would increase, and you told Mr Maurice that if he did not help you repay the money within that deadline, you would not be able to repay him.

34. In addition to this, you claimed that AUSTRAC and the Central Bank of Sri Lanka had asked you to open two bank accounts (one with Sampath Bank, and the other the CBA) requiring deposits of $22,600 into each bank so that the Central Bank of Sri Lanka and AUSTRAC could take their money in payment of the fines if you failed to pay them within the required time frame.

35. Between July 2019 and October 2020 you repeatedly contacted Mr Maurice and falsely claimed to have been beset by numerous family difficulties, financial hardship and to have been subject to fines and debts. Mr Maurice, believing you, transferred to you a total of over $473,000 to assist you. On each occasion you promised to repay him however you did not repay the sums that were provided, instead only repaying a small amount.

36. Over the period of the alleged offending you contacted Mr Maurice using a number of different mobile phones. You also sent him a number of messages purporting to be from your employer Farrid, who was supposedly assisting you with financial matters including your problem with AUSTRAC. Frequently those messages were sent to Mr Maurice after he had advised you that he had no money and he could not further assist you financially. In response, you sent text messages ostensibly from Farrid and explaining the apparent financial difficulties that you were experiencing. Mr Maurice, believing these messages to be authentic, and despite his own financial difficulties, would forward you the funds requested.

37. When Mr Maurice asked you about Farrid, you concocted a story that Farrid was shy which was why he would only communicate via SMS. On one occasion you sent Mr Maurice a photograph of a driver's licence. This licence depicted Saleem Bahrami but you told Mr Maurice that he preferred to be known as Farrid. Mr Maurice believed that Farrid was a legitimate person.

38. During the offending, Mr Maurice suggested that you should prepare and enter into a loan agreement. You later produced a loan document that you claimed had been prepared by Mr Farrid's lawyer. That agreement was subsequently signed by both you and Mr Maurice.

39. Moneys in each case were paid either using the 'PayID' method of transfer, transfer into bank accounts operated by you and in some instances you were provided with cash.

40. As a result of providing you with the money requested, Mr Maurice used all of his savings and even borrowed money from a large number of family members and friends. Consequently, he has accrued a significant debt. Shortly after the funds had been transferred to you by Mr Maurice, you would then transfer the funds into one of the betting accounts that you operated, and you used the money to place the bets. Had Mr Maurice known that these funds were going to be gambled, he would not have transferred those funds to you.

Charge 4:

41. Between 16 July 2019 and 27 December 2019, Mr Maurice made 168 transfers to you totalling $393,900. Whilst some of the money was used for living expenses by you; the rest you used for gambling. The amount of money that you dishonestly obtained from Mr Maurice during this period of time was $332,075.

Charge 7

42. Between 15 June and 21 October 2020, Mr Maurice made 291 transfers to you totalling over $248,000. Whilst some of those moneys were used for living expenses, you dishonestly obtained $141,300 by deception from him.

Charge 8

43. During the period of the alleged offending you opened accounts with AMP and Citibank in Mr Maurice's name. You did so using two of your mobile phone numbers and email addresses farridbharaminbn@gmail.com and neilmauriceas@yahoo.com. Bank cards relating to each of these accounts were located by investigators in your room in October 2020.

Terry Arangala

44. Mr Arangala was a self-employed gardener who was introduced to you in 2015 when he employed you on a casual basis to prepare the garden at his own home.

45. In 2018 you introduced Mr Arangala to gambling and encouraged him to apply for a Bet 365 Mastercard with Sportsbet. Mr Arangala used the card for a short period of time before he lost it. He thought nothing of the card after it went missing as he had lost interest in gambling.

46. He had no further contact with you after 2018.

Charge 1:

47. Somehow you had obtained Mr Arangala's driver's licence and used it to open bank accounts with ING and Citibank. You also used his licence to open betting accounts with Sportsbet and Tabcorp. In doing so you provided your mobile number, your Dandenong address and email addresses you had created with Gmail.

48. Specifically on 11 April 2019 you opened a Tabcorp account in the name of Terry Sajith Arangala, using a photograph you had taken of Mr Arangala's driver's licence. The account was last used to place a bet on 30 December 2019 and was logged into the account for the last time on 21 October 2020.

49. On 15 July 2020 you opened an ING visa debit account linked to a card number 4622 6300 9269 3690 in the name of Terry Sajith Arangala. You used a mobile number and address that you had created.

50. On 15 July 2020 you opened a Citibank MasterCard debit account in the name of Terry Arangala, and in doing so provided mobile numbers and an email address that you had created. The account was last used on 3 September 2020 when it had an available balance of nil.

51. On 27 August 2020 you opened a Sportsbet account in the name of Terry Arangala using a photograph that you had taken of his Victorian driver's licence. The account

was registered to an email address created by you and to a mobile number with a nominated address in Dandenong used by you. The account was linked to a credit card in Mr Arangala's name. A total of $17,280 was deposited into that betting account.

52. The Tabcorp card, the ING Visa card, the Citibank card and the Sportsbet card each in the name of Mr Arangala was found in your wallet during a search of your room in October 2020.

Saleem Bahrami

53. Saleem Bahrami owned the Salang Restaurant in Dandenong. He first met you when you came to the restaurant and claimed you were homeless. Mr Bahrami gave you free meals for three to four months. Later in approximately July 2016 he offered you work as a kitchen hand. Whilst at work, Mr Bahrami would leave his wallet in his bag in the kitchen as he worked in the front of the restaurant.

54. While you were working for Mr Bahrami you asked him for a loan of $1,400 saying your brother was in a coma and you had no one else to turn to. You promised to repay the loan in two days. Mr Bahrami believed you and loaned you the money which was repaid two days later in cash. Two days later you asked him for another loan for $5,000 which he declined to loan you.

Charge 5:

55. You took a photograph of Mr Bahrami's driver's licence and used it to open bank accounts with AMP and Citibank, two mobile phone accounts with Vodafone and a gambling account with Bet365. Mr Bahrami did not authorise you to open any accounts in his name.

56. Specifically on 29 July 2019 you subscribed to a Vodafone prepaid mobile service[1] in the name of Saleem Bahrami, using Mr Bahrami's Victorian driver's licence.

57. On 27 October 2019 you subscribed to another Vodafone prepaid service[2] again in the name of Mr Bahrami using his Victorian driver's licence. Each of these phone services

[1] Assigned mobile number 0424 341 882.
[2] Assigned mobile number 0404 766 867.

were used to contact Mr Dimitriou and Mr Maurice in the commission of the offending against each of them.

58. On 3 August 2020 you opened a Citibank MasterCard debit account in the name of Saleem Bahrami and provided a mobile number that you had obtained from Vodafone in July 2019 and an email address neilmauriceas@yahoo.com.

59. On 9 August 2020 you opened an AMP Visa debit account in the name of Saleem Bahrami, providing the mobile number that you had obtained from Vodaphone in October 2019 and using email address farridbharaminbn@yahoo.com.

60. The Citibank card and the AMP card were later found in your wallet on 22 October 2020, along with several bank and online betting cards in the name of Neil Maurice and other cards in the name of Terry Arangala and Saleem Bahrami, when police executed a search warrant in the room in which you were residing at the time. Upon examination of your mobile phone, investigators located a saved photograph of Mr Bahrami's Victorian driver's licence.

61. Upon your arrest in October 2020 you took part in a taped record of interview, during which you made a number of admissions concerning the alleged offending. In particular you admitted that you had taken money from Mr Maurice and Mr Dimitriou. You told investigators that you owed Mr Maurice over $500,000; that you were struggling and that you had decided to try to make money by gambling which was unsuccessful and you kept asking him for more money.

62. You admitted that that you had communicated with Mr Maurice and fabricated stories to encourage him to give you money over a 15-month period. You stated that you made up these reasons because in your mind you felt you had to be a man and not give up. You admitted making up the various tales to get money from Mr Maurice including that you had tried to obtain a rigger's licence, that you owed money to AUSTRAC and the Central Bank of Sri Lanka. You admitted that you had deceived Mr Maurice into believing that Farrid was a real person who was communicating with him.

63. You admitted that Mr Dimitriou had given you approximately $800,000 and that you had made up stories to get money from him. You told police that you did contribute some money to your mother-in-law's funeral and that your daughter was required to fly to India for an operation but that you did not actually fly there yourself. You admitted that you had used a debit card in another person's name to open a betting account.

64. You admitted that you had opened bank accounts with Citibank using the names of Mr Bahrami, Mr Arangala and Mr Maurice, intending to use their names to open betting accounts, and that you used Mr Arangala and Mr Maurice's identification to open betting accounts online. Further to that, you used Mr Bahrami's identification, which you took and photographed from his wallet whilst you were working for him, to open online accounts and that you used his name to open mobile phone accounts.

65. You told police that you had a gambling problem as you had no source of income, and that you used the funds provided by Mr Maurice and Mr Dimitriou to fund your gambling. You admitted that you had a serious gambling problem.

66. Inquiries made by investigators with Ladbrokes betting agency revealed that you had an account with Ladbrokes and had turned over in excess of $32 million since 2019. Inquiries with Ned's Betting revealed you had an account with them and had turned over in excess of $7 million since 2019. Inquiries made with Sportsbet revealed that you had a Sportsbet account and that you had won just over $1.362 million since 16 July 2020 of which $17,000 had been withdrawn and you have lost the remainder of those funds.

Procedural History

67. As I have noted you were arrested and interviewed in October 2020 and subsequently charged and then bailed. You conducted a contested committal which concluded in August 2021. The matter was listed for trial commencing 23 January 2023 however, the trial did not proceed on this date as resolution discussions were underway with the Office of Public Prosecutions. The matter ultimately resolved and you were arraigned on 25 January this year. On that date you entered pleas of guilty to the charges for which you now fall to be sentenced. Your plea hearing was conducted on 17 May 2023 and adjourned for a period to allow further material to be obtained regarding your time

in immigration detention. There have been further adjournments at your application following the illness and subsequent death of your mother.

68. You were released on bail after you were charged. You were placed into immigration detention, and you have remained in immigration detention since that time, that is from 22 October 2020 until now.

Victim Impact Statement

69. Tendered on the plea was a victim impact statement prepared by Mr Maurice. To say that this offending has affected him deeply, is an understatement. He describes the profound effect that your offending has had on him both personally and financially. He notes that as a result of providing you with such a considerable amount of money he is now heavily in debt. He describes that he frantically borrowed money from everyone and has sacrificed all of his earnings in order to, what he describes as 'save you'. He accepted that you needed money and in doing so dismissed the advice from family that he was being deceived. When the truth surfaced he found it extremely hard to accept. He states:

    My life went on a downward spiral and financially I was ruined. My life was so affected that I hit rock bottom and I'm still there.

70. As a consequence of Mr Maurice disregarding his family's advice, his family, his children, no longer want to have anything to do with him. When the offending came to light he had no money and he states he was evicted from his rental property; he was living in a friend's factory with very poor conditions. He states that he owes money to so many people and it is taking a toll on him mentally. He had planned to spend his money helping his children by contributing towards a deposit for their homes and it upsets him that this is something he can no longer fulfil. Mr Maurice notes that he will be 72 years old this year and although it will be difficult for him to perform physical work, he needs to rid himself of his debts and find a place to spend the final years of his life.

71. Clearly this has been a humiliating and demoralising experience for him, and one which has crippled him financially.

72. Mr Dimitriou declined to prepare a victim impact statement. However, it is apparent from the evidence that he gave at committal that he too has been significantly affected by your offending. He stated at committal that he was trying to help you have a good life for yourself in Australia and hopefully be able to move your wife and daughter over.[3] He describes the stress that he felt when you continued to put pressure on him, which he still experiences as at the time of the committal. He describes it as a fugue like state.[4] Looking back he cannot understand how he managed to get himself into the position he did. He stated that this has shattered him completely. He said at committal:

> *I now have no more confidence in myself as an individual and as a result of this. I got scammed in the stupidest way possible. How do you contextualise something like that. I feel like an idiot.*[5]

73. I take into account the impact that your offending has had on your victims, in particular, Mr Maurice and Mr Dimitriou.

Nature and Gravity of Offending

74. The offence of obtaining a financial advantage by deception encompasses a wide range of conduct. When considering the gravity of deception offences, it is necessary to focus on the scale of the offence and the personal circumstances of the offender. There are a number of factors that are relevant to an assessment of the objective gravity of your offending. I note that a number of the charges are rolled-up charges.

75. When sentencing on a rolled-up charge, the court must consider all of the circumstances of the offence and the totality of harm described in the charge. While I may consider all of the relevant circumstances of a rolled-up charge, the plea of guilty must still be treated as entered to a single formal charge – here this applies with respect to Charges 2, 3, 4, 6 and 7.

76. There is no doubt that your offending is very serious. You embarked on a process of ongoing deception over an 18-month period towards two separate victims. You took advantage of their good nature and their desire to help you, with the repeatedly false

[3] Depositions [680] - committal transcript L1.
[4] Depositions [692] - committal transcript L26.
[5] Depositions [697] - committal transcript L19.

suggestions that you and your family members were in dire financial need, sometimes due to tragic stories of injury, death or other hardship. You preyed upon the kindness that they showed you. You were persistent. You were manipulative. Your offending involved hundreds of requests for funds. Often those requests were made multiple times within the one day.

77. Even when both Mr Dimitriou and Mr Maurice indicated that they were not prepared to assist you, you wore them down sometimes by adding a further layer to your deception such as purporting to be your wife or an employer Farrid. You continued the subterfuge when you purported to be attending a meeting regarding your frozen assets, which you invited Mr Dimitriou to listen in on.

78. You asserted that there were various reasons for your inability to repay the money but continued to maintain that the money would nonetheless be forthcoming - for instance that you were waiting on a redundancy payment, that your wife was travelling to Australia to repay the funds, that you were waiting on an inheritance or that you were involved in a dispute with AUSTRAC and that the money would be repaid once the dispute had resolved. All of this was designed to keep your victims in anticipation of payment.

79. Moreover the total amount of money you fraudulently obtained from your two victims was significant. In Mr Dimitriou's case it amounted to over $625,000. In Mr Maurice's case, the fraudulent transactions exceeded $473,000. All up you obtained an extremely large amount of money totalling $1,098,747.

80. Having regard to the frequency and duration of the offending, the value of the financial advantage obtained, the degree of planning and sustained aspect of your offending and the fact that you deceived two victims, both of whom were genuinely seeking to assist you with financial aid, I consider that your offending was serious and your moral culpability high. The extent to which you were prepared to make up emotive stories citing dire personal and financial circumstances, in an effort to prey on both of your victims' good nature and desire to help out a fellow human being, is extraordinary.

81. Moreover, there was a further layer to your offending when you sent text messages purportedly from other people, or embellished the urgency of the need for payment, in an effort to add an element of authenticity for your request for money. That you were so persistent and even creative with your lies compounds the gravity of your offending. Having said that I accept your counsel's submission that these amount to ongoing attempts to obtain money and their repetition does not itself constitute an aggravating feature.

82. The reality is that you did not need the money for your daughter's surgery or your mother-in-law's funeral; nor did you have money frozen by AUSTRAC; nor were you expecting a redundancy payout or an inheritance; nor did you have a wife who was a doctor who was travelling to Australia with funds. Instead you used the money for gambling purposes, no doubt in an effort to chase the losses that you had suffered. You deposited an exceedingly large sum of money into various betting accounts and those accounts show an astoundingly high turnover of money totalling just under $40 million.

83. I accept that your offending did not result in any obvious wealth. The fact that you have very little to show for your offending is a sad reflection on what gambling can do to a person. Almost all of the money that you obtained has been frittered away on gambling. Your addiction has not only destroyed your life but that of Mr Dimitriou and Mr Maurice.

84. In relation to the charges of using identification information, Charges 1, 5 and 8, it is relevant that you used another person's details or documentation in order to open various accounts. This was done in order to be able to create a new banking and betting account for new credits and in reality, you did not receive a great deal of financial benefit. I accept that these offences are of a lower gravity then the other charges. Nevertheless, your conduct in particular in relation to Charge 5, reflects a degree of calculation. The way on which you obtained Mr Bahrami’s identification, in the course of your employment with him, warrants the court's condemnation.

Personal Circumstances

85. You are now 42 years old. You have no prior criminal history. You were born in Tangelle, Sri Lanka and are the youngest of three brothers. Your father was a farmer who passed away when you were in early primary school and following his death your family moved to live with maternal relatives in a village. Your older brothers supported your family financially following your father's death however your oldest brother was killed when you were 19. Your mother was a homemaker. Sadly she passed away on the eve of what was to be the date of sentence. She was in her 80's and had been living in Sri Lanka. She has been in poor health this year, and being unable to see her in her final years, has been a source of considerable stress to you. Up until her passing, you would speak with your mother weekly via telephone. You did not tell her of these charges due to the shame you feel. Likewise, you have not told your brother. I note that there has been no documentation produced in support of your recent loss. However, I am prepared to accept that the passing of your mother has and will cause considerable anguish to you whilst in custody.

86. You were married in 2013 in Sri Lanka and you have one daughter who is now aged approximately 7 years old. She was born after you moved to Australia in 2014. Initially it was planned that your wife would follow you to Australia however the relationship broke down and due to complications associated with your visa arising from your redundancy, you were unable to return to live in Sri Lanka. You and your wife divorced after a period of two or three years separation. You have no contact with your ex-wife by mutual agreement and as a consequence you have no contact with your daughter.

87. You graduated with degrees in information technology and electronic communications from university in Sri Lanka. After university you worked as a telecommunications engineer in Colombo where you had trained as an undergraduate. You first travelled to Australia in 2011 or 2012 when you were sponsored to work with Infotel networks as a telecommunications engineer. However, you were made redundant in 2013 and after a brief period in which you returned to Sri Lanka, you returned to Australia in 2014 after you gained employment with Vasp Group. This employment was initially in Melbourne however soon after your arrival, the job for which you were employed was moved to Perth. You were made redundant because you wished to remain in Melbourne. As a consequence of this you were forced to switch to a tourist visa which impacted on your

ability to work in Australia. You thereafter worked cash jobs and struggled with periods of homelessness.

88. You have suffered a severe gambling addiction. You have gambled more money than you can afford. This has had a significant negative consequence on your life resulting in financial and legal problems, further impacting your relationships. Associated with this you have experienced intense stress as a result of owing people money and the prospect of being deported from the country. Your gambling has led you to live an isolated existence. You have been diagnosed with an adjustment disorder which is associated with your gambling. I am told that your addiction is largely to blame for the breakdown in your relationship. You had attempted to hide your addiction but your family became aware of your problem when it became impossible for you to hide as a result of the extreme financial stress you had placed on your family.

89. I take into account the admissions that you made to investigators when interviewed. As your counsel points out, in some instances your admissions are the only evidence which established that a number of representations were false, for example your admission that your daughter did not require medical treatment. Had it not been for your admission, this would have been a matter that the prosecution would have been required to prove.

Psychological Report

90. A psychological assessment was conducted by Gina Cidoni. She notes that you have no formal mental health history and her report tendered is based on clinical impressions during the appointment, rather than any psychological testing. She has diagnosed you with Gambling Disorder and Adjustment Disorder with Disturbance of Conduct. She notes that you were experiencing intense stress due to your belief that you owed people money and the prospect of deportation. Your adjustment disorder is said to be in response to a specific stressor.

91. Ms Cidoni recommends counselling and Cognitive Behavioural Therapy, as well as group therapy such as Gamblers Anonymous. Relapse prevention therapy can assist you to identify high risk situations and develop strategies to prevent gambling and recidivism.

Prospects of Rehabilitation

92. Given that you have no prior criminal history, and you have accepted responsibility for your offending, I am of the view that you have good prospects of rehabilitation. However, your lack of supports and your history of addiction to gambling do moderate those prospects. You appeared to have some insight when you spoke to police about how your gambling contributed to your offending. This was noted by Ms Cidoni. However, there is no reference to remorse in her report and I note you did not attend your last appointment with her. Hopefully by now you appreciate not just the impact that your gambling has had on you, but the impact your offending has had on your victims.

Plea of Guilty

93. I take into account your plea of guilty. This was not an early plea. Indeed, it was entered shortly before your trial was due to commence. You ran a contested committal in which your victims were required to give evidence. Nevertheless, your plea of guilty is still one of considerable value. Your plea obviates the need for a relatively complicated trial in which a jury (possibly more than one if trials were severed) would have been required to consider a significant number of transactions and representations. Your plea means that you have spared your victims from giving evidence again at trial. It also indicates a willingness to facilitate the course of justice. It provides some evidence of remorse.

94. Your plea also has a further utilitarian value given that it was entered at a time when the courts have been afflicted by the COVID-19 pandemic which has led to a considerable backlog of trials. As the Court of Appeal articulated in *Worboyes v The Queen*,[6] your guilty plea is worthy of greater weight in mitigation than a similar plea entered at a time when the community and courts are not afflicted by the pandemic's effects and should result in a perceptible amelioration of sentence.

Immigration Detention

95. There is no pre-sentence detention referable to these charges as you have been on bail since your arrest. However, your entire period of bail has been served in

[6] [2021] VSCA 169.

immigration detention, which I understand equates to approximately 2 years, 9 months and 25 days. To that end your counsel submits that you have remained in Australia in quasi-custodial conditions as a result of these charges.

96. Placement in immigration detention is not as a result of these charges, given that you have overstayed your visa and therefore did not have a legitimate basis to remain in Australia. However, I do accept that the period of time you have spent in immigration detention has likely been longer than had you not been awaiting trial or sentence for this offending.

97. I understand that you have not remained in Australia on a Criminal Justice Visa, as an application by the Director of Public Prosecutions for such a visa was rejected on 20 December 2021. Therefore in reality you could have been deported at any time. Your counsel submits that despite the amount of time you have spent in immigration detention, you have not sought to leave Australia. Mr Reardon points out that this has remained the case even since your arraignment in January this year.

98. Your counsel submits that the time spent in immigration detention has been during COVID-19 in which restrictions have made it more onerous than it otherwise might have been. Tendered on the plea were photographs depicting your conditions both within the room you occupy and the premises themselves. Being in immigration detention has meant that you have been confined to the detention centre, with a small room, not dissimilar to prison accommodation. You are however, permitted the use of a mobile phone in detention through which you were able to be contactable by your mother, without her knowing the details of your offending.

99. The period of time that you have spent in immigration detention is not calculable as pre-sentence detention under s18 (1) of the *Sentencing Act*, as you have been in an environment akin to a custodial confinement for a reason not related to these proceedings. As the Court of Appeal noted in *Underwood (a pseudonym) v The Queen No. 2,*[7] fairness dictates that the sentence imposed upon you ought reflect the fact that you have been kept in suspense, with charges hanging over your head for well over 2 and a half years, in circumstances where you have been deprived of your liberty during

[7] [2018] VSCA 87.

that period. When I say 2 and a half years, as I have said, it is closer to 2 years and 9 months.

100. I take that period of detention, whilst not strictly constituting pre-sentence detention pursuant to s18 of the Act, I take it into account in a 'broad and practical way'. Consistent with the approach set out in *Sahhitanandan v The Queen,*[8] I give this period spent in immigration detention considerable weight when applying my instinctive synthesises. In the broad sense you have been deprived of your liberty.

101. Although I accept that there are more limitations on an individual in the prison environment, I have had regard to the fact that you have been in this custodial environment for a considerable period of time, and have moderated your sentence by reference to a significant component of this period. One outcome of this is that the non-parole period is shorter than it otherwise might have been.

Totality

102. You have pleaded guilty to 7 charges, many of which were rolled up. Each offence warrants individual punishment given that it involves distinct and serious conduct. There is a need for the sentences to reflect the individual charges and victims, and the conduct those charges comprise. However, there should be a degree of concurrency appropriate to satisfy the principle of totality. I must ensure that the totality of the sentences imposed is met with a just and proportionate sentence. Therefore, I have both moderated to a degree the length of the individual sentences and the periods of cumulation. This is necessary to avoid a crushing sentence. Accordingly, I have ordered significant or total concurrency in relation to some of the charges.

Current Sentencing Practices

103. I have had regard to current sentencing practices for similar offending. A number of cases (both from this court and the Court of Appeal) were drawn to my attention in which an offender was sentenced for similar dishonesty related offending.[9] None of

[8] [2019] VSCA 115.

[9] *Dyason v The Queen* [2015] VSCA 120; *Kepley v The Queen* [2021] VSCA 202; *Kelly v The Queen* [2021] VSCA 216; *DPP v Wilson [2022] VSCA 1995; DPP v Payne* [2016] VCC 1666; *DPP v Alesi and Alesi* [2017] VCC 768; and *DPP v Johnston* [2018] VCC 2210.

those cases are directly on par with this case, although there were some similarities. There were also relevant points of dissimilarity. For instance, in the matter of *DPP v Wilson*, there was one victim of the offending, but the offender had a relevant prior matter

104. I have had regard to each of the cases that have been identified by the parties as well as current sentencing practices more generally. Current sentencing practices are but one of the matters that I must take into consideration.

Sentencing Purposes

105. Denunciation, general deterrence and just punishment must loom large when it comes to imposing a sentence on you. Those who might be inclined to obtain a financial advantage, particularly of this magnitude, must understand that the courts and community will not tolerate this type of offending. Although you do not have a prior criminal history, specific deterrence must also be considered, given the persistent and ongoing nature of your offending. I must also have regard to rehabilitation and the principles of parsimony.

106. Pursuant to the *Sentencing Act 1991* (Vic), I am required to take into account various factors when formulating an appropriate sentence in your case. These include the seriousness of the offence, your culpability – which I regard as high, the effect of your offending on the victims and your personal circumstances. I have taken these matters into account.

Sentence

107. On Charge 1, the charge of using identification information, you are convicted and sentenced to 2 months' imprisonment.

108. On Charge 2, obtaining financial advantage by deception, you are convicted and sentenced to 2 months' imprisonment.

109. On Charge 3, obtaining financial advantage by deception, you are convicted and sentenced to 6 months' imprisonment.

110. On Charge 4, obtaining financial advantage by deception, you are convicted and sentenced to 20 months' imprisonment.

111. On Charge 5, using identification information, you are convicted and sentenced to 4 months' imprisonment.

112. On Charge 6, obtaining financial advantage by deception, you are convicted and sentenced to 2 years' imprisonment. I note that this charge will be the base sentence.

113. On Charge 7, obtaining financial advantage by deception, you are convicted and sentenced to 15 months' imprisonment.

114. On Charge 8, using identification information, you are convicted and sentenced to 2 months' imprisonment.

115. I order that charge 6 will be the base sentence. I order that the sentence imposed on Charge 1 be served concurrently with the sentence imposed on Charge 6. I order that the sentence imposed on Charge 2 be served concurrently with the sentence imposed on Charge 6 and on other sentences imposed this day.

116. I order that the sentence imposed on Charge 3 be served concurrently with the sentence imposed on Charge 6 and on other sentences imposed this day.

117. I order that 9 months of the sentence imposed on Charge 4 be served cumulatively on the sentence imposed on Charge 6 and on other sentences imposed this day.

118. I order that 1 month of the sentence imposed on Charge 5 be served cumulatively with the sentence imposed on Charge 6 and on other sentences imposed on this day.

119. I order that 3 months of the sentence imposed on Charge 7 be served cumulatively with the sentence imposed on Charge 6 and on the other sentences imposed on this day.

120. I order that the sentence imposed on Charge 8 be served concurrently with the sentence imposed on Charge 6 and on other sentences imposed on this day.

121. This equates to a total effective sentence of 3 years and 1 month imprisonment. I fix a non-parole period of 16 months' imprisonment. I note there is no pre-sentence detention.

122. But for your plea of guilty I indicate pursuant to s6AAA of the *Sentencing Act* I would have sentenced you to 4 and a half years' imprisonment with a non-parole period of 2 and a half years.

123. Counsel, were there any ancillary orders?

124. MR GRANT: No, Your Honour.

125. HER HONOUR: Yes, all right, thank you. You can now take Mr Mathangasing into custody.

We will adjourn, thank you.

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